

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Confirmation No.: 5911

Henrike LUTZ, *et al.*

Date: April 10, 2009

Serial No.: 10/593,213

Group Art Unit: 1656

Filed: January 12, 2007

Examiner: Marsha M. Tsay

For: HYPHAE-SPECIFIC CELL WALL PROTEINS OF CANDIDA

VIA EFS - WEB

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION AND ELECTION REQUIREMENTS

Sir:

In the Office Action mailed on March 16, 2009 claims 1-38 are subject to both restriction and species election requirements.

In a first ground of restriction applicants are required, in accordance with 37 C.F.R. 1.499, to elect a single invention from Groups I - XIV.

In response, applicants elect with traverse Group VI, claims 23 and 24, directed to a composition comprising an agent as identified in claim 22.

In a second ground of restriction, applicants are further required to elect a specific SEQ ID NO from the group elected above from among Groups I - XIV. In response applicants elect the following sequences with traverse. From the nucleic acid molecules disclosed in claim 22, SEQ ID NO:1 is selected. Further, from the amino acid sequences disclosed in claim 22, SEQ ID NO:2 is elected, i.e., wherein SEQ ID NO: 2 is the amino acid sequence coded by SEQ ID NO: 1.

Further to the above, the Office Action additionally states that the application contains claims to more than one species of the generic invention and that applicants are required to elect a single disclosed species.

As indicated above, both of the claims of the elected Group VI (i.e., elected with traverse) depend from claim 22. Therefore, from claim 22 applicants elect, with traverse, the species of Candida and Trichosporon. Both claim 23 and 24 are generic to the elected species.

In traversal of the restriction requirement(s) noted above, applicants respectfully submit that at least the method claims, i.e., method claim 5 for example, to the degree they are restricted to the specific Rbr1p protein which is characterized by SEQ ID NO:1 and SEQ ID NO:2, is connected with the Group VI claims due to the inclusion therein of an agent present in the diagnostic composition of claim 23 and the pharmaceutical composition according to claim 24.

Furthermore, pursuant to the election made above of SEQ ID NO:1 and SEQ ID NO:2 applicants respectfully submit that the technical feature linking Groups I - XIV is not a candida albicans cell wall. Rather, the feature is the specific candida albicans cell wall protein Rbr1p. Moreover, this specific cell wall protein is not taught in the Sohn et al. reference cited in the Office Action.

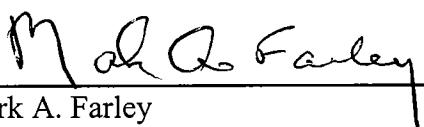
The Examiner is, therefore, respectfully requested to reconsider and withdraw the restriction requirement to the degree appropriate in light of applicants' remarks submitted above.

CONTINGENT EXTENSION REQUEST

If this communication is filed after the shortened statutory time period had elapsed and no separate Petition is enclosed, the Commissioner for Patents is petitioned, under 37 C.F.R. § 1.136(a), to extend the time for filing a response to the outstanding Office Action by the number of months which will avoid abandonment under 37 C.F.R. § 1.135. The fee under 37 C.F.R. § 1.17 should be charged to our Deposit Account No. 15-0700.

THIS CORRESPONDENCE IS BEING
SUBMITTED ELECTRONICALLY THROUGH
THE PATENT AND TRADEMARK OFFICE
EFS FILING SYSTEM ON April 10, 2009.

Respectfully submitted,



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